

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, April 1, 1999

v.
DIVISION THREE

A081519 -- Roger E. Smith, Inc. v. County of Humboldt.

The judgment is reversed and the case remanded to the trial court for further proceedings. Each party to bear its own costs. Corrigan, J., Acting P.J. We concur: Phelan, J.*, Walker, J.

*Retired Presiding Justice of the First District court of Appeal assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

A083031 -- Art Narvaez v. Sum Moo Seto et al.

We affirm the judgment. The request for sanctions is denied. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, April 2, 1999

DIVISION TWO

A077450 -- The People v. Kim Harold Burnett.

A085569 -- In re Kim Harold Burnett, on Habeas Corpus.

The conviction must be reversed. The petition for writ of habeas corpus is granted. Kline, P.J. See Concurring opinion of Lambden, J. See Dissenting opinion of Haerle, J. (Certified for Publication.)

A085900 -- FMC Corporation v. The Superior Court of San Mateo County v. East Bay Municipal Utility District, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

DIVISION FOUR

A081139 -- Patrick B. Hammons v. Optical Plastics Research, Inc., et al.

For all the foregoing reasons, the judgment of the trial court is reversed and the cause remanded for further proceedings consistent with this opinion. Costs to appellant. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

Friday, April 2, 1999 (continued)

DIVISION FIVE

A082910 -- The People v. Kelli Habein.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A083118 -- Larry L. Whiteside v. Lonestar Mortgagee Services, L.L.C.

The judgment of dismissal is reversed, and the matter is remanded to the trial court with instructions to overrule the demurrer. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A084253 -- In re Donald W., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him in foster care is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, April 5, 1999

DIVISION ONE

A083071 -- Intervention Incorporated v. Xerox Corporation.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A083662 -- Teri Bowman v. Russ King et al.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A081317 -- In re Gail C., a Person Coming Under the Juvenile Court Law.

The order terminating parental rights is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A083982 -- The People v. Francisco Hernandez Perez.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, April 5, 1999 (continued)

DIVISION FOUR

A084216 -- The People v. Douglas Lynch Childre.

Judgment affirmed. Reardon, J. We concur: Poché, Acting P.J.,
Sepulveda, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, April 5, 1999

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Marchiano, J., N. Millner, Deputy Clerk, and CHP Officer E. Swanson, Bailiff.

- A082364 In re Antwan E.
 The People,
 v.
 Antwan E.
Cause called and argued by Richard M. Doctoroff, counsel for appellant, and Ronald S. Matthias, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082528 Sonoma County Land Company, Inc.,
 v.
 Colonial Title Guaranty Company, et al.
Cause called and argued by Barry Meyer, counsel for appellant; Clayton Clement, counsel for respondent Colonial Title; and Amy Matthew, counsel for respondent First American. Cause ordered submitted.
- A081372 Joseph M. Alioto,
 v.
 Alioto Fish Company, et al.
Cause called and argued by Joseph Alioto, counsel for appellant, and Mario Alioto, counsel for respondents. Cause ordered submitted.
- A083161 Larry Albers,
 v.
 Stanley J. Bell, et al.
Cause called and argued by David Johnson, counsel for appellant, and Angela Bradstreet, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, April 5, 1999

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Swager, J., Marchiano, J., B. Robbins, Deputy Clerk, and CHP Officer E. Swanson, Bailiff.

- A082581 John K. Haggerty,
 v.
 The State of California, et al.
Cause called and argued by John Haggerty, appellant in pro per; Linus Masouredis, Deputy Attorney General, counsel for respondent State of California; and Jannie Quinn, counsel for respondent City of Marin. Cause ordered submitted.
- A083131 California Consumers,
 v.
 Pacific Bell.
Cause called and argued by Shawn C. Hirsch, counsel for appellant, and Bart Kimball, counsel for respondent. Cause ordered submitted.
- A081811 Schindler Elevator Corporation,
 v.
 City and County of San Francisco, et al.
Causes called and argued by Richard O. McDonald, counsel for appellant; G. Scott Emblidge, Deputy City Attorney, counsel for respondent; and Mark Oium, counsel for real party in interest. Cause ordered submitted.
- A082440 Dale Darrel Flowers, et al.
 v.
 Hilda M. Maloney, et al.
Cause called and argued by Deborah Boyd, counsel for appellant, via teleconference, and John Davis, counsel for respondent, via teleconference. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman left the bench and Acting Presiding Justice Stein joined the bench.

A081106 D&T Investments, et al.

v.

County of Alameda.

Cause called and argued by Michael A. Willemsen, counsel for appellants, and George Braue, Deputy County Counsel, counsel for respondent. Cause ordered submitted.

Court recessed until Tuesday, April 6, 1999 at 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, April 6, 1999

DIVISION TWO

A083144 -- In re Michael G., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J.
(Not for Publication.)

A086065 -- Dyna-Tel Inc. v. The Superior Court of San Francisco County, Antonio M. Garcia, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied.
Kline P.J.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Tuesday, April 6, 1999

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Swager, J., B. Robbins, Deputy Clerk, and CHP Officer E. Swanson, Bailiff.

Presiding Justice Strankman announced that Justice Stein was unavailable for oral argument. He informed all counsel that Justice Stein was familiar with all the cases, has read all the briefs and conferenced with the other justices, and would have audio tapes from oral argument. He asked if all counsel would stipulate to continue without Justice Stein. All counsel so stipulated.

A079166 Ahmad Abu-Aziz,
 v.
 United Airlines, Inc.
 Caused called and argued by Farley J. Neuman, counsel for appellant, and
 John Riley, counsel for respondent. Cause ordered submitted.

A082904 Linda Lee Nevis,
 v.
 National Insurance Crime Bureau.
 Cause called and argued by James S. Cameron, counsel for appellant, and J.
 Lucian Dodson, III, counsel for respondent. Cause ordered submitted.

A083485 Melissa Rogers,
 v.
 Kinaleek Stables, et al.
 Cause called and argued by Philip Borowsky, counsel for appellant, and
 Ronald F. Berestka, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday April 7, 1999

DIVISION ONE

AO81883 -- The People v. Andre McLish.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

AO82745 -- The People v. Shane David Briley.

Accordingly, the appeal is dismissed. (*People v. Panizzon, supra*, 13 Cal.4th at p. 90; *People v. Kelly, supra* 22 Cal.App.4th at p. 537.) Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

AO83210 --The People v. Jeffrey Scott Gerlacher.

The appeal is dismissed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A084220 -- The People v. Cash Shawn Hasley.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A073183 -- Ray Hosking v. Carrier Corporation et al.

Reversed and remanded to the trial court for further proceedings consistent with this opinion. The trial court is also authorized to consider whether to award attorney's fees incurred in the course of these proceedings on appeal. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, April 7, 1999 (continued)

A082638 -- The People v. John Mack Wade.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

A086479 -- Laurence Colangelo, et al. v. Taiki Corporation USA, et al.

The petition for writ of supersedeas/stay is denied. Kline, P.J.

DIVISION FOUR

A082349 -- The People v. Valin C. Pennewell.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J.,
Sepulveda, J. (Not for Publication.)

A082881 -- The People v. Karel Havlicek.

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J.
(Not for Publication.)

A084156 -- Aaron L'Hoir v. Pinkerton's, Inc.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J.,
Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A081488 -- The People v. Herbert Elwood Robertson.

The enhancement pursuant to Penal Code section 12022.1 is reversed. In
all other respects the judgment is affirmed. Haning, J. We concur: Jones, P.J.,
Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, April 8, 1999

DIVISION ONE

A082364 -- In re Antwane E., a Person Coming Under the Juvenile Court Law.

The order of commitment is modified to award appellant an additional 27 days presentence custody credits. As so modified, the order is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A083574 -- The People v. Adam Christopher Shumaker.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION FIVE

A084102 -- The People v. Antonwan Vincent Kelley.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday April 8, 1999 (continued)

A084765 -- Safeco Insurance Company of America v. Superior Court of Contra Costa County, Marianne Mckinney et al., R.P.I.

Let a peremptory writ of mandate issue commanding the Contra Costa County Superior Court to set aside its order denying summary judgment, filed October 19, 1998, in McKinney v. Safeco Insurance Co. (No. C96-00523), and to enter a new and different order granting the motion. Stevens, J. We concur: Jones, P.J., Haning, J.(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday April 9, 1999

DIVISION ONE

A081106 -- D&T Investments, Harison Apartments v. County of Alameda.

The judgment of dismissal is affirmed. The County is awarded its costs on appeal. Stein, Acting P.J. We concur: Swager, J., Marchiano, J.(Not for Publication.)

A082581 -- John K. Haggerty v. State of California, et al.

The judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano. (Not for Publication.)

A082904 -- Linda Lee Nevis v. National Insurance Crime Bureau.

The summary judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A083161 -- Larry Albers v. Stanley J. Bell, et al.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

Monday April 9, 1999 (continued)

DIVISION TWO

A081485 -- The People v. Michael R. Fortner.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J.
(Not for Publication.)

A082725 -- Terry Louis Carter v. California Unemployment Insurance Appeals Board, Craig M. Fairbanks, R.P.I.

The judgment is affirmed Appellant is to pay sanctions of \$500.00 to respondent for the filing of a frivolous appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A085744 -- J.G.Wentworth S.S.C.v. The Superior Court of San Francisco County, Davinia M. Willis, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

DIVISION FIVE

A082502 -- The People v. Ted Arthur Pompa

The jury's finding that defendant is ineligible for probation pursuant to section 1203.06 is stricken. In all other respects, the judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J.(Not for Publication.)

April 9, 1999 (continued)

A082994 (San Francisco Super. Ct. No. 169758-02) -- The People v. Ricky Strickland.

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment showing that the total sentence imposed was 11 years. In addition, the amended abstract should show appellant was awarded credit for 251 days in local custody, plus 124 days conduct credit for total award of 375 days. In all other respects, the judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday April 12, 1999

DIVISION ONE

A080660 & A081379 -- Estate of George T. Quinto. Augusto Quinto et al. v. Yuk Wah Lee Quinto.

The appeal is dismissed insofar as it pertains to the nonappealable accounting orders, the turnover orders in paragraphs 9 and 11 of the statement of decision, paragraph 13 regarding future disqualification as the representative of the estate, and paragraph 14 regarding appointment of counsel as co-trustees. Respondents' cross-appeal is dismissed as raising issues which are not ripe for review at this time. In all other respects the orders appealed from in A080660 and A081379 are affirmed. Respondents are entitled to costs on appeal. Marchiano, J. We concur: Stein, Acting P. J., Swager, J. (Not for Publication.)

A081500 -- People v. Marlon Palmer

The conviction of receiving stolen property on count 6 is reversed and the case is remanded for correction of the abstract of judgment in accordance with this opinion. In all other respects, the judgment is affirmed. Swager, J. We concur: Stein, Acting P. J., Marchiano, J. (Not for Publication.)

A082528 -- Sonoma County Land Company, Inc. v. Colonial Title Guaranty Company et al.

That portion of the judgment finding against SCL on its causes of action against First American based on the latter's duty to defend is reversed and remanded for reconsideration in accordance with the principles discussed in this opinion. The order awarding costs to First American as the prevailing party is also reversed. In all other respects, the judgment is affirmed. Costs on appeal to Colonial; SCL and First American are to bear their own costs on appeal. Strankman P. J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

Monday, April 12, 1999 (continued)

A085743 -- Jacquelyn R. v. Sonoma County Superior Court; Sonoma County Department of Human Services.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for April 21, 1999. Therefore, our decision is final in this court immediately. Swager, J. We concur: Strankman, P. J., Stein, J. (Not for Publication.)

DIVISION TWO

A075328/A076586 -- In re the Marriage of Susann Margreth Bonds and Barry Lamar Bonds.

We reverse that part of the judgment which upheld the validity of the prenuptial agreement, and instruct the trial court to enter judgment that the prenuptial agreement is invalid. We affirm the judgment regarding child support and we remand for the trial court to divide the community property consistent with this opinion and to redetermine the issue of the duration of spousal support. Sun is awarded costs on appeal. Lambden, J. I Concur: Kline, P.J. See Ruvolo, J., Concurring and Dissenting. (Certified for Publication.)

Monday April 12, 1999 (continued)

DIVISION THREE

A076346 -- Charles Brusman et al. v. City and County of San Francisco et al.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Phelan, P.J.*, Walker, J.

*Retired Presiding Justice of the First District Court of Appeal assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FOUR

A082266 -- Lew Warden et al. v. Parker Associates, Inc., et al.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A082732 -- In re Stirling A., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Poché, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday April 13, 1999

DIVISION ONE

A082390 -- Jeffrey H. Swayne v. Maureen Faibish.

A082418 -- Cheryl Wallace v. Maureen Faibish.

A082428 -- Jeffrey Hailey v. Maureen Faibish.

Accordingly, the judgments are affirmed. Swager, J. We concur:
Strankman, P.J., Stein, J.(Not for Publication.)

DIVISION TWO

A080088 -- Nobantu Ankoanda, AKA, Beverly G. Ellis v. Paula D. Walker-Smith.

The judgment is reversed and the case is remanded to the trial court with specific instructions to proceed with partitioning the property on the basis of the ownership interests set forth in the May 28, 1986, and March 30, 1987, deeds. Costs on appeal are awarded to Walker-Smith Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A086303 -- Patricia Diana Hettler v. The Superior Court of Mendocino County, John Leon Vanmeter, et al, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied.
Kline, P.J.

A086537 -- Marilyn H. Artega v. Bank United of Texas, et al.

The petition for writ of supersedeas/stay is denied. Kline, P.J

Tuesday April 13, 1999 (continued)

A086544 -- The E.J. Bartells Company v. The Superior Court of San Francisco County, Arthur Manners et al, R.P.I..

By the Court: The petition for writ of mandate/stay is denied. Justice Haerle would grant a stay. Kline, P.J.

DIVISION FOUR

A080566 -- The People v. Jeffrey Scott Harnden.

The judgment is ordered modified as follows: (1) as to count one, defendant is sentenced to the upper term of 11 years, such term to constitute the principal term under section 1170.1; (2) as to count two, defendant is sentenced to a consecutive, subordinate term of 2 years under section 1170.1; and (3) the resulting total term is modified to reflect a total of 46 years imprisonment.

The trial court shall prepare and furnish to the Department of Corrections an amended abstract of judgment reflecting the foregoing modifications and omitting any reference to “forceable” (or forcible) lewd acts in counts two, four, five and seven..

As so modified the judgment of conviction is affirmed. Sepulveda,J. We concur: Hanlon, P.J., Reardon, J.(Not for Publication.)

DIVISION FIVE

A081495 -- The People v. William Taylor.

The judgment of conviction is affirmed.

The trial court’s order forbidding further contact with jurors is vacated, and the matter is remanded to the trial court for further proceedings as set forth herein. Stevens, J. We concur: Jones, P.J., Haning, J.(Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION FOUR

Tuesday, April 13, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P. J., Poche, J., and Reardon, J.; Channing Hoo, Deputy Clerk; Elizabeth Swanson, Bailiff.

- A082256 County of Del Norte
v.
City of Crescent City
Cause called and argued by John Henion, counsel for appellant City, and by Steven Belzer, counsel for respondent. Cause ordered submitted.
- A080914 Christopher Tyler et al.
v.
Dell P. Williams et al.
Cause called and argued by Ed Koplowitz, counsel for appellants Williams et al., and by Michael McCracken, counsel for respondents. Cause ordered submitted.
- A080711 In re Marriage of Sosnick
Naomi Sosnick
v.
Robert Sosnick
Cause called and argued by Leonard Martinent, counsel for appellant Naomi Sosnick, and by Bernard N. Wolf, counsel for respondent. Cause ordered submitted.
- A078379 People
v.
Daryl B. Haynes
Cause called and argued by Stephen Bedrick, counsel for appellant Haynes, and by Susan Duncan Lee, counsel for respondent. Letter brief from appellant by 5:00 p.m., April 20, 1999. Letter brief from respondent by 5 p.m., April 23, 1999. Cause to be submitted upon last filing.

At this point, the court reconstituted itself to include Poche, Acting P.J.,

Reardon, J. and Sepulveda, J.

A081096 Sharron Usher
v.
Friendly Cab Company et al.
Cause called and argued Alexander S. Berline, counsel for appellants
Company et al., and by Victor Pineda, counsel for respondent. Cause
ordered submitted.

A082249 Matthew B. Anderson
v.
Public Storage, Inc.
Cause called and argued by Mark F. Anderson, counsel for appellant
Anderson, and by Peter Hecker, counsel for respondent. Cause ordered
submitted.

Court recessed at 12:25 p.m.

Courtroom Minutes
Division 4
Tuesday April 13, 1999

Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Sepulveda, J., Jim Campbell, Deputy Clerk and CHP Officer Lorrie Kempf, Bailiff.

A078720 People,
 respondent,
 v.
 Oliver Evans,
 appellant.

Cause called. Neoma Kenwood argued on behalf of appellant, Oliver Evans. John Deist, D.A.G., argued on behalf of respondent. Cause submitted.

At this time the court reconstituted itself with Reardon, J. in place of Poche, J.

A083104 Save-the-Redwoods League,
 appellant,
 v.
 Board of Supervisors,
 respondent,
 Kenneth Beebe,
 real party in interest.

Cause called. John Beers argued on behalf of appellant, Save-the Redwoods League. Ginevra Chandler argued on behalf of respondent. Frank Bacik argued by teleconference on behalf of real party in interest. Cause submitted.

A079102

People,
respondent,
v.
Aaron Maurice Coleman
appellant.

Cause called. Deborah Tuttelman argued on behalf of appellant, Aaron Maurice Coleman. Jeffrey Laurence, D.A.G., argued on behalf respondent.

The Court adjourned at 3:15 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, April 14, 1999

DIVISION FIVE

**A083552 -- James Willis Samuels v. Sonoma County Registrar of
Voters, Eeve T. Lewis, R.P.I.**

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J.
(Not for Publication.)

A084698 -- The People v. Lafayette P.

The orders of the juvenile court are affirmed. Stevens, J. We concur:
Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, April 14, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A080258 Don Andersen, et al.
 v.
 Safeway, Inc.
Cause called and argued by Richard B. Ulmer, Jr., counsel for appellant and Chris Redburn, counsel for respondent. Cause ordered submitted.
- A084453 Rory O. Merry
 v.
 Maceo J. Wiggins, et al.
Cause called and argued by Rory Merry, appellant in propria persona and Markus B. Willoughby, counsel for respondents. Cause ordered submitted.
- At this point in the proceedings, Presiding Justice Kline left the bench and Justice Lambden joined the bench.
- A083849 In re the Marriage of Patricia Ann Jacobs and William Edward Hanks
 Patricia Ann Jacobs
 v.
 William Edward Hanks
Cause called and argued by Bernard N. Wolf, counsel for appellant and Diana Richmond, counsel for respondent. Cause ordered submitted.
- A084042 Transdyn/Cresci
 v.
 City and County of San Francisco
Cause called and argued by Mark Linderman, counsel for appellant and Sheryl Bregman, Deputy City Attorney, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, J., Lambden, J., Ruvoilo, J., and I. Santos, Deputy Clerk.

A081909 The People,
 v.
 Larry Allen Schmoe.
Cause called and argued by Richard Krech, counsel for appellant, and Deputy Attorney General, John Deist, counsel for respondent. Cause ordered submitted.

A082513 Heriberto Uriarte,
 v.
 U.S. Pipe and Foundry, Inc.
Cause called and argued by Bernhard Bergesen, counsel for appellant, and Gregory O'Hara, counsel for respondent. Cause ordered submitted.

A079626 Stanford Horn,
 v.
 Cushman & Wakefield Western, Inc.
Cause called and argued by John McGuinn, counsel for appellant, and Nancy Pritikin, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Lambden left the bench and Justice Haerle joined the bench for the remainder of the calendar.

A080317 Susan Worthington,
 v.
 Dennis R. Zinner, D.C., et al.
Cause called and argued by Antonio Bautista, counsel for appellant, and Robert Chin, counsel for respondent. Cause ordered submitted.

A078766 Pauline Johnston,
 v.
 James Rego.
Cause called and argued by Baron Drexel, counsel for appellant, and via teleconference, Robert Borris, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, April 15, 1999

DIVISION ONE

A081786 -- The People v. Andrew Piazza.

Accordingly, the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A083094 -- In re Felicia F., a Person Coming Under the Juvenile Court Law.

The juvenile court's June 1, 1998 order selecting and implementing a permanent plan is reversed. (§ 366.26.) The juvenile court's June 1, 1998 order denying Mother's modification motion is affirmed. (§388.) The case is remanded to the juvenile court for another permanent plan hearing consistent with this opinion. All parties shall bear their own costs on appeal. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A077125 -- Estate of John Mario Bianchi.

**Glenn H. Sipma, as Administrator etc. v. Redwoods
Community College District.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Thursday, April 15, 1999 (continued)

A081669 -- Russell D. Harris et al. v. Michael Torr et al.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A082242 -- Stephen M. Williams v. Board of Permit Appeals, et al.

The order appealed from is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

DIVISION FOUR

A082344 -- The People v. Michael Paul Montenegro.

For all the foregoing reasons, the judgment of conviction is affirmed. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A082347 -- The People v. Robert Wayne Trotter.

The judgment imposing enhancement of the perjury conviction with a prior strike is reversed. The trial court shall prepare and forward to the Department of Corrections an amended abstract of judgment showing the prior offense as a one-year enhancement. The judgment is otherwise affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

A083214 -- Nurit Lisovsky v. Rocco Calamia.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

Thursday, April 15, 1999 (continued)

A085093 -- Steven H. Gee v. Medical Board of California.

A085580 -- Steven H. Gee v. Medical Board of California.

The order to show cause is discharged, the petition for writ of mandate is denied, and the appeal in A085580 is dismissed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, April 16, 1999

DIVISION ONE

A083131 -- California Consumers v. Pacific Bell.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

DIVISION THREE

A074119 -- Industrial Indemnity Company et al. v. Apple Computer, Inc., Insurance Company of the State of Pennsylvania.

The judgment is reversed. The trial court is directed to enter judgment in favor of Industrial and ICSOP. The parties shall bear their own costs on appeal. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Certified for Publication.)

A079070 -- Allan R. Carpenter et al. v. Sheppard, Mullin, Richter & Hampton et al.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J.,
Walker, J. (Not for Publication.)

Friday, April 16, 1999 (continued)

A082948 -- International Brotherhood of Electrical Workers, AFL-CIO, Local Union # 6 v. City and County of San Francisco et al.

The trial court's order is affirmed. The City shall recover its costs on appeal. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A081680 -- In re Roosel W., a Person Coming Under the Juvenile Court Law.

The jurisdictional order of January 20, 1998, the dispositional order of February 3, 1998, and the CYA commitment order of February 3, 1998, are modified as follows: as to count 2, to strike the references to sections 664 and 451, subdivision (b), and replace those references with appropriate references to section 455; and as to counts 16 and 19, to strike the "surplusage" referring to section 664. The CYA commitment order of February 3, 1998, is further modified as follows: as to count 2, to strike the 10-month term imposed, and to impose instead a consecutive 8-month term; as to count 17, to strike the 4-month term imposed, and to impose instead a consecutive 2-month term; as to count 15, to include the designation "I" for what is already described therein as a "residential burglary"; and to reflect a maximum period of confinement of 26 years 10 months. In all other respects, the orders of the juvenile court are affirmed. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A084440 -- The People v. Anthony Fuimaono.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, April 19, 1999

DIVISION ONE

A082167 -- In re Gloria L., a Person Coming Under the Juvenile Court Law.

The judgment of dependency is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A085876, A085877 -- In re Billiejean Lisa C., a Minor.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petitions for extraordinary writs are denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for April 26, 1999. Therefore, our decision is final in this court immediately. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A080910 -- In re the Marriage of Cher Gillette Morse and David Morse.

The order is reversed. Each party to bear own costs. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Monday, April 19, 1999 (continued)

A086316 -- Eleanor Frances Cheney v. The Superior Court of Contra Costa county, William Warren Nelson, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied.
Kline, P.J.

DIVISION THREE

A082154 -- The People v. Phoukham Pooky Khanthavong.

The judgment is affirmed. Walker, J. We concur: McGuiness, P.J.,
Corrigan, J. (Not for Publication.)

A083078 -- The People v. Terrell Jackson.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P.J.,
Walker, J. (Not for Publication.)

DIVISION FIVE

A082749 -- The People v. Jason Todd McGlown.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J.
(Not for Publication.)

A083007 -- In re Kemma C., a Person Coming Under the Juvenile Court Law.

In re Kimaji C., a Person Coming Under the Juvenile Court Law.

The order terminating parental rights and placing the minors for adoption is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Monday, April 19, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; and Strankman, P.J. of Division One on assignment by order of The Chief Justice* and Richard H. Sandvik Deputy Clerk. Counsel having so stipulated, Haning, J. to review oral argument by way of audio tape recording.

A082490 Charles J. Pankow

v.

Heide V. Betz et al.

Cause called and argued by Mark E. Overland, counsel for appellant, counsel for respondent did not appear. Cause ordered submitted.

A085477 In re San Gabriel Valley Water Cases.

A085482

A085486 Cause called and argued by Gary Preglin and Berry Goldman, counsel for
A085488 plaintiffs, Mary Hulett, counsel for the public utilities, Barry Goode,
A085495 counsel for defendants, and by Joseph Butler and W. Kieth Lemieux
A085496 counsel for non-regulated water utilities. Cause ordered submitted.

A085501

A085502

A083668 Leslie Flannery

v.

John F. Prentice, et al.

Cause called and argued by Lawrence N. Hensley, counsel for appellant, and by Joe Ross McCray, counsel for respondent. Cause ordered submitted.

A082595 Mary Griffin

v.

Fire Insurance Exchange et al.

Cause called and argued by Glenn D. Kabanuck, counsel for appellant, and by Fred Martin Feller, counsel for respondent. Cause ordered submitted.

A083445 Robert Ross
 v.
 Golden Bear Insurance Company
Cause called and argued by Louis Stanton Franecke, counsel for appellant,
and by Janet Kulig , counsel for respondent. Cause ordered submitted.

A081961 Lewis Williams
 v.
 City of Belvedere et al.
Cause called and argued by Peter B. Brekhus, counsel for appellant, and by
Elliot Lewis Bien, counsel for respondent. Cause ordered submitted.

A083661 Sally Credo
 v.
 County of Alameda
Cause called and argued by Pamela Kunath, counsel for appellant, and by
Michael G. Nardi, counsel for respondent. Cause ordered submitted.

A082321 Amelia Kressler
 v.
 John A. Troup
Cause called and argued by George J. Keller, counsel for appellant, and by
Henry Daniel Froneberger, counsel for respondent. Cause ordered
submitted.

A081595 The People
 v.
 Larry Darnell West
Cause called and argued by Barry L. Morris, counsel for appellant, and by
Thomas A. Brady, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A084091 The People
 v.
 Marc Joseph Carroll
Cause called and argued by Rick Addicks, counsel for appellant, and by

Martin S. Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court Adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday April 20,1999

DIVISION ONE

A079166 --Ahmad Abu-Aziz v. United Air Lines, Inc.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A082123 -- Cesar Ascarrunz v. James P. Diestel, Jr., et al.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A083149 --In re Chaughnere N., a Person Coming Under the Juvenile Court Law. The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A083414 -- The People v. Frederick Carl Presler.

The judgment is modified by striking the \$600 restitution fine and substituting in its place the \$200 restitution fine originally imposed. As modified, the judgment is affirmed. The trial court is directed to prepare a modified abstract of judgment consistent with this disposition and forward it to the Department of Corrections. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

Tuesday April 20, 1999 (continued)

DIVISION TWO

A081418 -- The People v. Ladelle Jackson.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J.
(Not for Publication.)

DIVISION THREE

A079888 -- David Lee Birkholz v. State of California et al.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J.,
Walker, J. (Not for Publication.)

A081648 - The People v. Ulices Torres Garcia

The judgment is affirmed. McGuiness, P. J., Corrigan, J., Walker, J. (Not
for Publication.)

A083736 The People v. Robert Lawrence Ingram

Accordingly, the judgment that defendant violated his probation is
confirmed, as is his State Prison sentence. The matter is remanded to the trial
court with directions to forward to the Department of Corrections an amended
abstract of judgment awarding defendant additional credit for time served as a
condition of his probation in Growth Advocates. Corrigan, Acting P.J. We
concur: Parrilli, J., Walker, J. (Not for Publication.)

A084749 -- The People v. Herbert Bey.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J.,
Parrilli, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday April 21, 1999

DIVISION ONE

A083485 -- Melissa R. v. Kinaleek Stables et al.

Accordingly, the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A080225 -- Jan Overholtzer v. West Contra Costa Unified School District et al.

The award for punitive damages to Martha Buck is reversed. In all other respects, the judgment is affirmed, as is the denial of respondent's motion for attorney fees. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A082942 -- China Basin Properties, Ltd. v. Public Transportation Commission of the City and County of San Francisco et al.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A086612 -- In re Deborah Ann Ruelas, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied without prejudice to petitioner first seeking habeas relief in the San Mateo County Superior Court. Kline, P.J.

Wednesday April 21, 1999 (continued)

DIVISION FOUR

A080914 -- Christopher Tyler et al. v. Dell Williams et al.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J.
(Not for Publication.)

A083992 -- The People v. Steven Thomas Gangbin.

The order is affirmed. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A082173 -- The People v. Eric Lloyd.

The judgment is affirmed. Jones, P.J. We concur: Haning, J. , Stevens, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELATE DISTRICT

Thursday, April 22, 1999

DIVISION ONE

A082633 -- The People v. Adrian K. Mitchell.

The judgment is affirmed. Stein, Acting P.J. We concur: Swager, J., Marchiano, J.(Not for Publication.)

DIVISION TWO

A084029 -- Redwood Region Audubon Society et al. v. County of Humboldt et al., The Pacific Lumber Company, R.P.I.

The judgment is affirmed. Appellants are to pay costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A082109 -- International Brotherhood of Electrical Workers, AFL-CIO, Local Union #6 v. City and County of San Francisco et al.

The judgment is affirmed. Costs are awarded to respondents. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Thursday April 22, 1999 (continued)

A079226 -- Michael C. Sotiriou v. Dennis E. Baca et al.

The judgment is affirmed. Costs on appeal are awarded to respondent.
Parrilli, J. We concur: McGuinness, P.J., Corrigan, J.. (Not for Publication.)

DIVISION FOUR

- **A082044 -- The People v. Pedro G. Medina.**

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J.,
Sepulveda, J.(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday April 23, 1999

DIVISION ONE

A082440 -- Dale Darrel Flowers et al.v. Hilda M. Maloney et al.

The judgment is reversed. The matter is remanded to the trial court with directions to vacate its judgment and to issue a new judgment which does not grant an easement in favor of Flowers, and to quiet title to the Flowers property according to the legal description stated in the previous judgment. Maloney is entitled to costs on appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A083217 -- Antonio Mendez v. San Mateo County Transit District.

The order denying appellant's petition for late claim relief is reversed and the matter is remanded to the Superior Court to hold a hearing on the facts regarding whether or not appellant was represented by counsel when he executed the property damage release. Appellant is entitled to costs on appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION THREE

A080616 -- The People v. Leonard Lavel Patterson.

The judgment is modified to reduce the restitution fine from \$3,000 to \$200, and affirmed as modified. The superior court is directed to prepare and forward to the Department of Corrections a corrected abstract of judgment. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday April 23, 1999 (continued)

A080665 -- Robin S. Silverman v. Hanson, Norris & Rossi.

We reverse the granting of a new trial motion, as the motion should not have been granted on the ground specified in the court's specification of reasons, or on any other ground raised by Silverman's motion. We remand for entry of judgment in favor of Hanson, Norris & Rossi, consistent with the trial court's initial order granting nonsuit. Appellant to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A081279 -- Herman Grooms et al. v John Provolt et al.

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A082062 -- The People v. Peter Bell.

Affirmed. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A085873 -- Kristi R. v. The Superior Court of the County of San Francisco, San Francisco Department of Human Services et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Because the section 366.26 hearing is set for April 28, 1999, our decision is final in this court immediately. (California Rules of Court, rule 24(d).) Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FIVE

A085874 Kathy F. v. Sonoma County Superior Court, Sonoma County Department of Human Services, R.P.I.

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B~~0~~); *Kowis*

Friday April 23, 1999 (continued)

v. *Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (Subd. ~~h~~.) Because the section 366.26 hearing is set for May 12, 1999, our decision is final as to this court immediately. (See Cal. Rules of Court, rule 24 subd. (d).) Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, April 26, 1999

DIVISION ONE

A083106 -- The People v. Serafin Tapia Martinez.

Judgment is affirmed. Swager, J. We concur: Stein, Acting P.J.,
Marchiano, J. (Not for Publication.)

A081372 -- Joseph M. Alioto v. Alioto Fish Company, LTD.

The judgment and the order denying sanctions in the San Francisco action
are affirmed.

We assess sanctions in the full amount of the reasonable attorney's fees and
costs expended by AFC on this appeal, and remand the matter to the trial court to
determine expeditiously the appropriate amount to be paid by Joseph M. Alioto.
(*Otworth v. Southern Pac. Transportation Co.*(1985) 166 Cal.App.3d 452, 461.)
Pursuant to Business and Professions Code section 6086.7, subdivision (c), the
clerk of the trial court is directed to send a copy of this opinion to the State Bar if
the sanctions exceed \$1,000. Marchiano, J. We concur: Strankman, P.J., Stein, J.
(Not for Publication.)

A084469 -- Rufino Jimenez et al. v. Wilfredo Albovias et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

April 26, 1999 (continued)

DIVISION TWO

A086671 -- Karen Courtney Rudnick, et al. v. The Superior Court of Marin County; Stuart Wilson, RPI.

By the Court: The petition for writ of mandate/stay is denied. The denial is without prejudice to petitioner's Code of Civil Procedure section 170.3 challenge or an independent determination by the trial court to recuse itself in light of the extent of the trial court's participation in settlement proceedings. Kline, P.J.

DIVISION THREE

A072114 -- Estate of Lonnie R. Beard, Deceased. Merle Cables, as Executor, etc. v. Lottie Ann Beard.

A074710 -- Lonnie R Richard Beard III et al. v. Lottie Ann Beard.

The orders and judgment appealed from are affirmed in their entirety. Appellant shall pay respondents' costs on appeal. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Certified for Publication.)

A077670 -- Franklin Castleman et al. v. Sears, Roebuck and Company.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A082039 -- The People v. Yaphet Eugene Scott.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

April 26, 1999 (continued)

A077719 -- The People v. Scott Douglas Roos.

A084331 -- In re Scott Roos on Habeas Corpus.

By The Court: The petition for rehearing is denied on the merits.
McGuiness, P.J.

A080992 -- Misty K. Ty v. Rodolfo Raymundo Llorca.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

DIVISION FOUR

A081096 -- Sharron Usher v. Friendly Cab Company et al.

The judgment is affirmed. Sepulveda P.J. We concur: Poché, Acting P.J.,
Reardon, J. (Not for Publication.)

Monday, April 26, 1999 (continued).

DIVISION FIVE

A083592 -- Lee Doe v. Jennifer Rhinehart et al.

The order awarding fees is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A084765 -- Safeco Insurance Company of America v. Superior Court of Contra Costa County, Marianne McKinney et al., RPI.

By the Court: Good cause having been shown, the written opinion which was filed April 8, 1999, has now been certified for publication pursuant to Rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the official reports Jones, P.J.

A084460 -- The People v. Willie James Whigom.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELATE DISTRICT

Tuesday April 27, 1999

DIVISION ONE

A083441 -- In re Keth Darnell M., a minor.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

A083694 -- The People v. Joseph Daniel Lindsay.

The order dismissing the information is reversed. Strankman, P.J.
We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A083928 -- The People v. James Albert Hale.

The order revoking appellant's probation and executing the
previously stayed prison term is affirmed. Kline, P.J. We concur: Haerle, J.,
Lambden, J.
(Not for Publication.)

A083749 -- In re Charles M., a minor.

The judgment is reversed and remanded to the juvenile court for
further proceedings consistent with this opinion.(§ 1260.) Haerle, J. We concur:
Kline, P.J., Lambden, J. (Not for Publication.)

A086629 -- In re Dameian S. Rodgers on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied.
Kline, P.J.

April 27, 1999 (continued)

A086633 -- Bradford Rogers v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Petitioner should first seek relief in the trial court. Kline, P.J.

A081042 -- The People v. Jon E. Clark.

A085538 -- In re Jon E. Clark on Habeas Corpus.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A084435 -- The People v. Linda Lee Parkin.

The judgment is affirmed. Ruvolo, J. We concur: Kline P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A081616 -- Associated Galleries of California v. Nancy B. Rogers et al.

The judgment of the trial court is affirmed. Respondents' motion for sanctions is denied. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

April 27, 1999 (continued)

A078561 -- The People v. Lawrence Campos.

Reversed Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J.
(Not for Publication.)

DIVISION FOUR

**A082244 -- City and County of San Francisco v. Wilbert
Freeman.**

The child support order is reversed and remanded to the trial court for recomputation in accordance with the mandate of section 4071.5. In the interests of justice each party shall bear its own costs on appeal. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

A080231 -- The People v. Carlos Massey.

The order of probation is affirmed. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A083806 -- The People v. Anthony Dwayne _Phillips.

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

April 27, 1999 (continued)

DIVISION FIVE

A083728 -- The People v. Billy Holdman

We affirm the judgment. Jones, P.J. We concur: Haning, J., Stevens, J.
(Not for Publication.)

A082176 -- The People v. Gregory Brown.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J.
(Not for Publication.)

Courtroom Minutes
Division 4
Tuesday April 27, 1999

Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Reardon, J., Jim Campbell, Deputy Clerk and CHP Officer Terry Tracy, Bailiff.

A083340 People,
 respondent,
 v.
 Jeffrey Allen Sutton,
 appellant.

Cause called. Joseph Chabot argued on behalf of appellant, Jeffrey Allen Sutton. Seth Schalit, D.A.G., argued on behalf of respondent. Cause submitted.

At this time the court reconstituted itself with Sepulveda, J. in place of Reardon, J.

A083751 In Re Vertis H., a minor
 People,
 respondent,
 v.
 Vertis H.
 appellant.

Cause called. Alan Siraco argued on behalf of appellant, Vertis H. Raymond Cardozo, D.A.G., argued on behalf of respondent. Cause submitted.

The Court adjourned at 2:20 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELATE DISTRICT

Wednesday April 28, 1999

DIVISION ONE

A080533 -- Esprit de Corps., v. Susie R. Tompkins.

The order denying the motion to compel arbitration is reversed. Costs are awarded to appellant. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A086637 -- Pacific Gas and Electric Company v. Farmers Insurance Exchange, et al., R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

DIVISION THREE

A082803 -- In re Rodolfo V., a minor.

The disposition order is affirmed. Corrigan, J. We concur: McGuinness, P.J., Walker, J. (Not for Publication.)

April 28, 1999 (continued)

DIVISION FOUR

A084616 -- The People v. Darrel Felix Davis.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A082256 -- County of Del Norte v. City of Crescent City.

We reverse the judgment. County to pay costs on appeal. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELATE DISTRICT

Thursday April 29, 1999

DIVISION TWO

A080340/A081156 -- The People v. Curtis James Carter et al.

The judgment imposed in Del Norte County Superior Court No. 97057C is modified to reflect a maximum term of imprisonment of 15 years. The superior court is directed to amend the abstract of judgment and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the judgments are affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A083152 -- Herbert Walter Quick v. Callene Sheila Dubel, et al.

The order appealed from and the amended judgment are affirmed. Haerle, J. We concur: Kline P.J., Ruvolo, J. (Not for Publication.)

A079478 -- The People v. David Reynolds.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A081909 -- The People v. Larry Allan Schmoe.

The matter is remanded for further proceedings in accordance with the views expressed in this opinion. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

April 29, 1999 (continued)

A086412 -- Charles Drexler v. The Superior Court of Alameda County, Agatha T. Wang, et al., R.P.I.

By the Court: The petition for writ of mandate/prohibition is dismissed as moot. Kline, P.J.

DIVISION THREE

A084451 -- The People v. Timothy Allen Roller.

The judgment is affirmed. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A078383 -- The People v. Reynaldo Rivas.

The judgment of the trialcourt is affirmed. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A080116 -- Eloise Gilbert v. National Corporation for Housing Partnerships, et al.

We affirm the order disqualifying appellant's attorney. Each party will bear its own costs. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Certified for Publication.)

DIVISION FOUR

A081292 -- The People v. Kenneth Fullman Jong.

The orders granting defendant's motion to suppress and dismissing the case are reversed. Hanlon, P. J. We concur: Reardon, J. Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELATE DISTRICT

Friday, April 30, 1999

DIVISION TWO

A080367 -- Promontory Point Townhomes Association v. Shoreline Development Company et al.; Guildhouse Development Corporation, Defendant, Cross-Complainant and Respondent, Western Landscape Construction, Inc., Cross-Defendant and Appellant.

We dismiss this appeal without reaching its merits for lack of appellate jurisdiction. Ruvolo, J. We concur: Haerle, Acting P. J., Lambden, J. (Not for Publication.)

DIVISION THREE

A083919 -- The People v. Norman Thomas.

Affirmed. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A085771 -- In re Enmerie K., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary relief is denied on its merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard, supra*, 3 Cal.4th at p. 894.) Because the section 366.26 hearing is set for May 4, 1999, our decision is final in this court immediately. (Cal Rules of court, rule 24(d).) McGuiness P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

April 30, 1999 (continued)

DIVISION FIVE

A081595 -- The People v. Larry Darnell West.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J.
(Not for Publication.)